

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

JOSE AVALOS,

Defendant.

**8:13CR88**

**ORDER**

Defendant, proceeding *pro se*, has filed a motion requesting free copies of “trial transcripts for both trials, all jury notes of both trials, the court’s discharge of the jury and any other related matter.” ([Filing No. 243](#).) Defendant asserts that he has filed a writ in the Supreme Court and that he needs the requested documents “so that he may amend his petition requesting a writ in the Supreme Court.” (*Id.*) The Eighth Circuit Court of Appeals previously declined to grant Defendant a certificate of appealability, but granted him leave to appeal in forma pauperis. (See [Filing No. 237](#).)

Litigants do not have the right to receive copies of documents without payment, even if they are indigent. [Lewis v. Precision Optics, Inc., 612 F.2d 1074, 1075 \(8<sup>th</sup> Cir. 1980\)](#). Fees for transcripts furnished to persons permitted to appeal in forma pauperis are to be paid by the government if the judge certifies that the appeal is not frivolous. [28 U.S.C. § 753](#). Here, Defendant has not made a showing of need for the documents. Defendant has not submitted any information demonstrating that he has actually filed a petition for writ of certiorari in the Supreme Court. Defendant is free to contact the Clerk’s Office for the United States District Court to inquire as to the cost of copies in this matter. Copies will not be provided without pre-payment.

Accordingly,

**IT IS ORDERED** that Defendant's Motion Requesting Trial Transcripts ([Filing No. 243](#)) is denied. The Clerk of Court is directed to mail a copy of this Order to Defendant at his address of record.

Dated this 15<sup>th</sup> day of June, 2018.

BY THE COURT:

s/ Susan M. Bazis  
United States Magistrate Judge